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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,994	06/17/2005	Michael Rosenbauer	2002P01290WOUS	8036

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BSH HOME APPLIANCES CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
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EXAMINER
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GOLIGHTLY, ERIC WAYNE

ART UNIT	PAPER NUMBER
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1792

MAIL DATE	DELIVERY MODE
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01/13/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/539,994	<b>Applicant(s)</b> ROSENBAUER, MICHAEL	
	<b>Examiner</b> Eric Golightly	<b>Art Unit</b> 1792	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 20, 21 and 23-42 is/are pending in the application.
- 4a) Of the above claim(s) 23-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 20, 21 and 23-42 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on 7/14/2008. Accordingly, the rejections of the prior Office action are withdrawn, and the claims examined on the merits herein.

Claims 1-19 and 22 are cancelled. Claims 20, 21 and 23-42 are pending. It is noted that the lack of claim 23 in the submission recitation "[c]laims 20, 21 and 24-42 are currently pending ..." (remarks at page 9, first paragraph), appears to be merely a typographical error.

### ***Election/Restrictions***

2. Applicant's election with traverse of claims 20 and 21 (Invention I) in the reply filed on 9/22/2008 is acknowledged. The traversal is on the ground(s) that a search and examination of all claims could be made without a serious burden because, it is alleged, the claims are sufficiently related. This is not found persuasive because restriction is permitted between the distinct inventions set forth in this application even assuming, *arguendo*, these inventions related. See MPEP 802.01

With regard to applicant's allegation that joinder of these distinct inventions would not present a serious burden to the U. S. Patent and Trademark Office, such allegations relied on the unsupported assumption that the search and the examination of all of the

inventions would be coextensive. Further, while there may be some overlap in the searches of the inventions, there is not reason to believe that the searches would be identical. Applicant's attention is drawn to the fact that the search for method claims requires the identification of processing steps, while the search for apparatus claims requires the identification of structural elements. Therefore, based on the additional work involved in searching and examining the distinct inventions together, restriction of the distinct inventions is clearly proper.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 23-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 20, the phrase "the operating for identifying the second part of the identification system" in lines 8 and 9 renders the claim indefinite because it is not

clear exactly what this means. It appears that the intended meaning may be "operating a first part of the identification system to identify data of a second part of the identification system", i.e., a repeat of the recitation of lines 3 and 4, and this meaning will be used for purposes of examination.

Regarding claim 21, the phrase "based upon the identified data" renders the claim indefinite because it is not clear whether the intended meaning is that the phrase only refers to "dosing of the treatment agent" (line 11) or whether the intended meaning is that the phrase can also refer to "treatment of objects by the household device" (line 10). It appears that the latter meaning may be intended, and this meaning will be used for purposes of examination.

### ***Response to Amendment***

6. The objection to the abstract is withdrawn in view of the amendment filed 7/14/2008.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 10039408 to Zucholl (hereinafter "Zucholl") in view of WO 0032864 to Mourad (hereinafter "Mourad").

Regarding claim 20, Zucholl Teaches a method for treating objects with at least one treatment agent in a household device (EPO machine translation of Zucholl detailed description, paragraph beginning "Object [sic] of the invention"), comprising: operating a bar code reader, computer and controller (drawing, ref. 6, 3 and 7), or first part of an identification system, to identify data of a second part of the identification system, the data of the second part of the identification system being associated with a packaging (id., paragraph beginning "In an other [sic] particularly favourable embodiment a reading"); and adapting a treatment of objects by the household device based upon the identified data (id., paragraphs beginning "An apparatus become").

Zucholl does not explicitly teach the data of the second part of the identification system comprises information on a dosing device. Mourad teaches a method of controlling a washing machine (abstract) and discloses operating a washing machine control unit (EPO machine translation of Mourad detailed description, paragraph

beginning "Washing machine control") to identify data of an external datum carrier (id, paragraphs beginning "The object is solved by a method" and "The substantial information"), or second part of the identification system, that comprises information on a dosing device (id, paragraphs beginning "The parts of the wash program", "The detergent dosage represents", "On the basis of these ... measured parameters" and "By this 'division of responsibilities'"). The inclusion of the dosing device information is disclosed as advantageously reducing the need for detergent producers to be concerned with the characteristics of dosing devices (id, paragraph beginning "By this 'division of responsibilities'"). It would have been obvious to one of ordinary skill in the art at the time of the invention to include information on a dosing device operable to dose the treatment agent as per the method of the Mourad teaching in the method as per the Zucholl teaching in order to reduce the need for detergent producers to be concerned with the characteristics of dosing devices. Further, the skilled artisan would have found it obvious to that the information be associated with the packaging of the dosing device to enhance operator and bar code reading of the information.

Regarding claim 21, Zucholl and Mourad disclose the method wherein adapting the treatment of objects by the household device comprises adapting parameters of a treatment control parameter to the information (EPO machine translation of Mourad detailed description, paragraph beginning "Due to the characteristics").

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Golightly whose telephone number is (571) 270-3715. The examiner can normally be reached on Monday to Thursday, 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Kornakov can be reached on (571) 272-1303. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EWG  
/Michael Kornakov/  
Supervisory Patent Examiner, Art Unit 1792